

52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (SEPT 2005) [TAILORED]

52.212-4 *Clauses are incorporated by reference with the exception of Clause 52.212-4(c) and Clause 52.212-4(i) which are stated in full text as follows:*

52.212-4(c) Changes. *Changes in the terms and conditions of this contract may be made only by written agreement of the parties.*

52.212-4(i) Payment.

- (1) **Items accepted.** *Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.*
- (2) **Prompt Payment.** *The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.*
- (3) **Electronic Funds Transfer (EFT).** *If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.*
- (4) **Discount.** *In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.*
- (5) **Overpayments.** *If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.*

THE FOLLOWING CLAUSE C1 IS ADDED AS AN ADDENDUM TO 52.212-4(a), CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS

C1. Addenda 52-212-4(a) - INSPECTION/ACCEPTANCE. The Vendor shall submit completed pilot, aircraft and mechanic, if applicable, information forms for all personnel and aircraft that may be utilized under the agreement. Information from these forms will be used to determine the suitability of personnel and aircraft for use. Information provided must be verifiable by appropriate logbook and other Vendor supplied records.

C1.1 The Vendor shall, upon request, make all personnel, equipment, and records to be used under this agreement available for inspection. Inspections shall be performed during normal government working hours at the Vendor's facility unless other arrangements have been made.

C1.2 For special use activities, a pilot flight performance evaluation shall be conducted when determined necessary by the government to verify the pilot's ability to perform under this agreement. The aircraft used for this evaluation flight shall be the same make and model as offered for this agreement, be equipped with dual controls and be provided at the Vendor's expense.

C1.3 Upon determination that the proposed aircraft and pilot meet agreement requirements, aircraft and personnel qualification documentation will be issued. The documents will indicate the activities for which the aircraft and personnel have been approved. The aircraft approval document shall be carried in the aircraft during use under this agreement. Personnel approvals shall be available for review when requested by the government during performance under this agreement. Aircraft and crews normally operated under 14 CFR 121 will not be issued approval documents.

C1.3.1 Personnel and equipment approval documents are Government property. The Contracting Officer can request the approval documents' return by written request or an authorized DOI AM Inspector may remove the approval document from an aircraft at any time he/she deems it as appropriate.

C1.4 The Government shall not approve any Vendor personnel or equipment not complying with the provisions of this agreement.

C1.5 If the government does not approve any personnel or equipment as noted above, the cost of re-inspection may, at the Government's option, be charged to the Vendor to include inspector's time, transportation and subsistence.

C1.5.1 Inspector's time: \$75.00 per hour per inspector for all hours including travel time required to the re-inspection location.

C1.5.2 Actual costs for transportation, i.e. rental car, airline ticket, etc.

C1.5.3 Subsistence as authorized by the Federal Travel Regulations.

C1.6 Vendor Business Meeting. A business meeting will be held with new Vendors to discuss administrative procedures, safety expectations, and problem resolution processes. Attendance by the Vendor's senior management, the requesting bureau and any interagency partners is recommended. The servicing U.S. DOI Aviation Management (DOI AM) representative will conduct the business meeting for all new agreements. The meeting is typically held at the Vendor's facility to coincide with approval and issuance of aircraft and pilot approval documents. This meeting is administrative in nature and is not intended for technical inspection purposes.

C1.7 Suspension of Pilot.

C1.7.1 Upon receipt of substantiated written correspondence that indicates a serious safety concern, suspension action of a pilot may be initiated.

C1.7.2 Upon involvement in an Aircraft Accident or NTSB Reportable Incident (see 49 CFR Part 830), a pilot operating under this agreement will be suspended from performing pilot duties under this agreement and any other activity authorized under the interagency pilot qualification card(s) issued to the pilot pending the investigation outcome.

C1.7.3 Upon involvement in an Incident with Potential as defined under Mishaps, a pilot operating under this agreement may be suspended from performing pilot duties under this agreement and any other activity authorized under the interagency pilot qualification card(s) issued to the pilot pending the incident investigation outcome.

C1.7.4 When the pilot is suspended, and when requested, the interagency pilot qualification card(s) will be surrendered to the COTR or other authorized agency representative. Pilot suspension will continue until:

C1.7.4.1 The investigation findings and decision indicate no further suspension is required and the interagency pilot qualification card(s) is returned to the pilot; or

C1.7.4.2 Suspension/Revocation action regarding the pilot's interagency DOI pilot authorizations is taken by the issuing agency in accordance with agency procedures. The Suspension/Revocation Process – Pilot DOI Qualification Card process is outlined in Exhibit C.

C1.8 Replacement of Personnel - Vendor Personnel Conduct.

C1.8.1 Performance of agreement services may involve work and/or residence on Federal property (i.e., National Parks, Refuges, Indian Reservations, etc.). Vendor employees are expected to follow the rules of conduct established by the manager of such facilities that apply to all (both Government or non-Government) personnel working or residing on such facilities. A copy of such rules will be available from the managing bureau. The Vendor may be required to replace employees who are found to be in noncompliance with Government facility rules of conduct.

C1.8.2 Personnel who perform ineffectively, refuse to cooperate in the fulfillment of the project objectives, are unable or unwilling to adapt to field living conditions, or whose general performance is unsatisfactory or otherwise disruptive or detrimental to the purpose for which contracted, shall be replaced by the Vendor. Pilots who fly recklessly or fail to follow safe operating practices shall be replaced by the Vendor.

C1.8.3 The Vendor shall be notified by the CO of all unsatisfactory conduct or performance, stating the conditions of unsatisfactory or unsafe performance by the Vendor's personnel. An opportunity for corrective action may be afforded, when the conditions warrant. When directed by the CO, the Vendor agrees to replace unacceptable personnel not later than 24 hours after such notification, or as otherwise mutually agreed upon. The decision as to unacceptability shall be at the sole discretion of the CO.

C2. RESPONSIBILITY OF VENDOR

C2.1 At Vendor's expense, the Vendor shall:

C2.1.1 Obtain all required licenses and permits.

C2.1.2 Comply with any applicable Federal, State, Municipal, and Indian Tribal laws, codes, regulations, and ordinances.

C2.1.3 Take precautions necessary to protect property and persons including third parties against injury or damage and be responsible for any such injury or damage that occurs as a result of his fault or negligence; (the term "third parties" is construed to include employees of the Government).

C2.2 Notify the Contracting Officer when the circumstances of a particular project justify more favorable terms such as price, guarantee, standby, etc. The using bureau is not authorized to make any changes to this agreement or to negotiate with the Vendor.

C3. INSURANCE REQUIREMENTS

C3.1 Aircraft Insurance Liability *(Applicable with Vendor furnished pilot(s))*

(a) The Vendor agrees to maintain, during the continuance of this agreement, insurance in amounts equal to or greater than the minimum amounts required by either Title 14 of the Code of Federal Regulations, Section 205.5 (14 CFR 205.5) or by the state in which the Vendor is operating pursuant to orders under this agreement, whichever is greater.

(b) The Vendor also agrees to maintain workers' compensation and other legally required insurance with respect to the Vendor's own employees and agents.

C3.2 The Vendor shall require their insurance company to submit evidence of insurance coverage and submit notice of any changes to the policy.

C3.3 Liability for Loss or Damage (48 CFR 1452.228-72, APR 1984) *(Applicable only with Government furnished pilot(s))*

(a) The Vendor shall indemnify and hold the Government harmless from any and all losses or damage to the aircraft furnished under this contract except as provided in (d) below. For the purpose of fulfilling his obligation under this clause, the Vendor shall procure and maintain during the term of this contract, and any extension thereof, hull insurance acceptable to the contracting officer. The Vendor's insurance coverage shall apply to pilots furnished by the Government who operate the aircraft. The Vendor may request a list of Government pilots by name and qualification who are potential pilots.

(b) Prior to the commencement of work hereunder, the Vendor shall furnish the contracting officer a copy of the insurance policy or policies or a certificate of insurance issued by the underwriter(s) showing that the coverage required by this clause has been obtained.

(c) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company will notify the contracting officer 30 days prior to the effective date of any cancellation or termination of any policy or certificate or any modification of a policy or certificate which adversely affects the interests of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the Contracting Office, the policy, and the insured.

(d) If the aircraft is damaged or destroyed while in the custody and control of the Government, the Government will reimburse the Vendor for the deductible (if any) stipulated in the insurance coverage as follows:

(1) In-Motion Accidents - Up to 5% of the current insured value of the aircraft stated in the policy, or \$10,000, whichever is less.

(2) Not In-Motion Accidents - Up to \$250.00 per accident. Such reimbursement shall not be made, however, for loss or damage to the aircraft resulting from (1) normal wear and tear, (2) negligence or fault in maintenance of the aircraft by the Vendor, or (3) defect in construction of the aircraft or a component thereof.

(e) If damage to the aircraft is established to be the fault of the Government, rental payments to the Vendor during the repair period will be made as set forth elsewhere in the contract. The Government may, at its option, make necessary repairs or return the aircraft to the Vendor for repair. In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Vendor thereafter.

(f) Any failure to agree as to the responsibility of the Government or the Vendor under this clause shall, after a final finding and determination by the contracting officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

C4. AUTHORITY OF REPRESENTATIVES

C4.1 Contracting Officer (CO). The CO is the appointed Government official with authority to enter into, administer and terminate this agreement. No one but the CO is authorized under any circumstances to:

C4.1.1 Award, agree to, or execute any agreement, agreement modification, or notice of intent.

C4.1.2 Obligate, in any way, the payment of money by the Government with the exception of orders placed under section C6, Ordering Services.

C4.1.3 Negotiate or make changes to this agreement.

C4.1.4 Make a final decision on any agreement matter that is subject to the Disputes clause of this agreement.

C4.1.5 Terminate, for any cause, the Vendor's right to proceed.

C4.2 Contracting Officer's Technical Representative (COTR). The COTR listed for each Regional Office is authorized to take any or all actions necessary to assure compliance with the technical portions of the agreement. The COTR will conduct all requested or required inspections.



The COTR for the West Region is:

West Regional Director
Aviation Mgmt Western Region
University Plaza Suite 300
960 Broadway Avenue
Boise, Idaho 83706

Phone: 208-334-9310
Fax: 208-334-9303



The COTR for the East Region is:

East Regional Director
Aviation Mgmt Eastern Region
3190 N.E. Expressway, Suite 110
Chamblee, GA 30341

Phone: 770-458-7474
Fax: 770-458-6677



The COTR for the Alaska Region is:

Chief, Division of Technical Services
AM Alaska Regional Office
4405 Lear Court
Anchorage, AK 99502-1032

Phone: 907-271-3728
Fax: 907-271-4788

The DOI – AM Aviation Safety Manager (ASM) is responsible for all matters concerning accident and incident with potential investigations.

Aviation Safety Manager
AM Headquarters
300 E. Mallard Drive, Suite 200
Boise, Idaho 83706-3991

Phone: 208-433-5070
Fax: 208-433-5069

C4.3 Vendor's Representative. The pilot shall represent the Vendor in all matters except changes in price and time unless the CO is notified otherwise, in writing, prior to performance.

C5. AGREEMENT PERIOD. The agreement period shall be from date of acceptance by the Government until superseded by a new agreement or canceled by either party in writing. This agreement will be reviewed annually by the Government to determine if a continuing need exists.

C6. ORDERING SERVICE. The Government does not guarantee the placement of any orders for service and the Vendor is not obligated to accept any orders. However, once the Vendor accepts an order from a DOI-AM Flight Coordination Center or Bureau representative, the Vendor is obligated to perform in accordance with the terms and conditions stated herein.

C6.1 Price is a mandatory consideration when placing orders for service, but price can be balanced when considering other factors such as response time, past performance, and experience.

C6.2 The ordered period of service shall extend from the time services begin (i.e. aircraft departs base) until released by the Government and will include required ferry to and from the site of work.

C6.3 Orders placed against this agreement shall not exceed \$25,000 on an ordered mission basis unless otherwise authorized by the Contracting Officer.

C6.4 Services ordered under this agreement are subject to termination by either party upon 24-hour notice, prior to commencement of work, unless a longer period is agreed upon in writing.

C6.5 Aircraft furnished shall be subject to the exclusive use and control of the Government throughout the ordered period of use. The date and time of hire and date and time of release shall be recorded on the OAS-23.

C7. BILLING OFFICE, INVOICE, AND REPORT SUBMISSION

C7.1 Invoices. The offices listed below are designated billing offices for submission of the invoice unless otherwise directed by the Government. If the Government directs that the invoice be submitted to a local office, that office will become the billing office.

CONTERMINOUS 48 STATES
U.S. Department of the Interior
Aviation Management
300 E. Mallard Drive, Suite 200
Boise, Idaho 83706-3991

ALASKA AND HAWAII
U.S. Department of the Interior
Aviation Management
4405 Lear Court
Anchorage, Alaska 99502-1032

C7.1.2 The Vendor may submit invoices not less than every two weeks beginning from the first day services begin. Services provided shall be shown on a daily basis. Partial payment of potential guarantee due will be at the discretion of CO.

C7.2 Aircraft Use Report, OAS-23.

C7.2.1 An Aircraft Use Report, OAS-23 form shall be completed and signed by both the Vendor, or

Vendor's representative, and the Government. Instructions for proper completion of the Aircraft Use Report are contained in the OAS-23 booklet. At the election of the Vendor, the completed and signed Aircraft Use Report may be used as the Vendor's invoice.

C7.2.2 It is agreed that the inclusion of unit and extended prices for services performed will be accomplished by the payment office based upon established agreement prices. However, it is the Vendor's responsibility to compute and submit a line item entry on the OAS-23 for any guarantee due.

C7.2.3 For agreements without pilot, the Government pilot will record use data on the OAS-23(s) and submit to the Vendor. The completed forms will be sent to the designated billing office for payment.

C8. GUARANTEE, MEASUREMENT AND PAYMENT.

C8.1 Guarantee

C8.1.1 The Government does not guarantee any minimum number of flight hours except as defined in C8.3.4.

C8.2 Measurement

C8.2.1 **Helicopters.** Flight time shall be measured from lift-off to touchdown and recorded in hours and tenths of hours. Flight time shall be measured by means of an approved electrical time recorder as required in the specifications.

C8.2.1.1 **Extended Standby.** Extended standby shall be measured and recorded in full hours, rounded up to the next whole hour, not to exceed each crewmember's duty limitations specified under section B.3.3.

C8.2.2 **Airplanes.** Flight time shall be measured and recorded in 24-hour clock time from the time the aircraft commences its takeoff roll until it returns to the blocks. Elapsed time will be recorded in hours and tenth/hundredths of hours. A conversion table is contained within the OAS-23 book.

C8.2.2.1 **Standby.** Standby time shall be measured and recorded in 24-hour clock time. It shall be recorded on the OAS-23 as it occurs, under start/stop time, converted to hours and tenths/hundredths and shown in the elapsed time column.

C8.2.2.2 **Air Tactical Airplanes.** (for periods of service in excess of 24 hours) The minimum hours per day will apply only on periods of service greater than 24 hour hire and remain overnight away from base of operation. The vendor will be compensated for the minimum per day as indicated on the OAS-10 or the actual flight time whichever is greater.

C8.2.3 **Guarantee Helicopter.** The minimum guarantee will apply only on days the Vendor is required to remain overnight away from the base of operations, or is required to be available for the Government's exclusive use for four or more hours during the day. Services terminating at or before 1200 hours or beginning after 1200 hours will be measured as one-half the guarantee hours set forth on the OAS-11.

C8.2.3.1 Whenever ordered service is unavailable, the minimum guarantee will be reduced by the length of time service is unavailable not to exceed the minimum guarantee per day as specified on the OAS-11.

C8.2.3.2 Guarantee will not accrue after the aircraft is released, regardless of the location and the circumstances at the time of release (i.e., adverse weather conditions, etc.).

C8.3 Payment.

C8.3.1 **Payment for Flight Time.** Payment will be made for all flights ordered by the Contracting Officer or the Government representative and flown by the Vendor or Government pilot at the rates set forth on the OAS-10/11.

C8.3.1.1 **Flights for Vendor's Benefit.** Payment will not be made for flights for the benefit of the Vendor such as maintenance test flights, flights to and from maintenance facilities, training or familiarization flights, flights required following an engine change, or transportation of Vendor's support personnel.

C8.3.2 Airplane Standby. The Government will pay for standby time when properly invoiced and reported on Form OAS-23, at the rates stipulated in OAS-10, block A2.(2). If the pilot is held away from the Vendor's base of operations or standby is specifically ordered at the base of operations, standby time will be computed subject to the following:

C8.3.2.1 If the Vendor is required to remain away from the base of operations, overnight and the flight crew is not being held in a ready standby status, (i.e., at the airport ready to takeoff), standby will accrue only between the hours of 0800 and 1700.

C8.3.2.2 The Vendor may offer more favorable standby terms (e.g., free standby equal to hours flown) either as part of the agreement under OAS-10, block A2.(2) or on a case-by-case basis documented on Form OAS-23.

C8.3.2.3 Standby will be earned when the pilot is held in a ready standby status, (i.e., at the airport ready to takeoff).

C8.3.2.4 Standby will not be earned for stops involving passenger exchange, cargo loading/unloading, fuel stops, lunch breaks, or acts of God, such as weather, which prevent continuation of the flight.

C8.3.2.5 If prolonged standby is anticipated, the government traveler may release the Vendor, upon the Vendor's request, to utilize the aircraft for their own purposes, provided the Vendor returns the aircraft one hour in advance of the departure time specified by the Government traveler. No standby charge shall accrue if this option is chosen, and no ferry time will be earned while the Vendor is operating the aircraft for their own purposes.

C8.3.2.6 Air Tactical Airplanes. (for periods of service in excess of 24 hours) When properly invoiced and reported on Form OAS-23, payment will be made for the greater of (1) actual flight time, or (2) the minimum flight hours per day as set forth on the OAS-10.

C8.3.3 Helicopter Extended Standby Extended Standby shall be paid for all services ordered by the Government and performed by the Vendor which extend beyond a nine hour period. Extended standby is applicable only to those crewmembers ordered by the Government and furnished by the Vendor and shall not exceed the applicable crew duty day. Extended standby is not intended to compensate the Vendor on a one-to-one basis for all hours necessary to service and maintain the aircraft, but is intended to provide the Vendor compensation for employee time that is specifically ordered by the Government and provided by the crewmember(s).

C8.3.4 Helicopter Guarantee.

C8.3.4.1 When properly invoiced and reported on Form OAS-23, payment will be made for the greater of (1) actual flight time including required ferry, or (2) the total guarantee determined by multiplying the number of days of ordered service by the daily guarantee set forth on the OAS-11.

C8.3.4.2 Payment of unflown guarantee will be computed at the guaranteed rate as set forth on the OAS-11, block 2.(1).

C8.3.5 Co-pilot. When a co-pilot is requested for service under this agreement, the co-pilot will be paid at the hourly rate set forth on the OAS-10/11 for actual flight time performed.

C8.3.6 Relief Crew Reimbursement When Operating Away From The Vendor's Base of Operation.

C8.3.6.1 A relief crew is not required. However, if requested by the Government and furnished by the Vendor, relief crewmember's reasonable cost of transportation to the work site will be paid by the Government.

C8.3.6.2 Costs are limited to the actual expense involved in transporting crewmembers, i.e. airline tickets, subsistence, car rentals, privately operated vehicles (POV) at the current Government rate for mileage (\$.445 per mile is the current rate).

C8.3.6.3 If transportation is provided by Vendor resources, the Vendor shall use a company invoice for the resource used, i.e. charter airplane, C172 at \$105.00 per hour for 2 hours = \$210.00 due. Unless authorized in advance by the CO or bureau representative, the expense for Vendor resources shall not exceed reasonable costs by common carrier.

C8.3.6.4 Claims for relief crew transportation expenses shall be supported by itemized invoices. The invoice shall include date and location of the relief exchange and the itemized costs of relief transportation.

C8.3.7 **Fuel Supply Expense.** The Vendor is responsible for the cost of all fuel required to perform under this agreement.

C8.3.7.1 If Government furnished fuel is provided, payments to the Vendor will be reduced by computing the gallons provided times the fuel cost based upon commercial rates at the nearest point fuel is commercially available to the work site.

C8.4 Additional Pay Items. Claims for additional pay items addressed herein shall be documented on the invoice for payment and supported by invoices(s) and/or document(s) as required below. Payment will not be made for additional pay items without supporting invoices(s) and/or documents(s).

C8.4.1 **Subsistence Allowance.** A subsistence allowance may be claimed for each authorized crewmember, for each overnight, including mandatory days off, when held away from the Vendor's base of operations (OAS-10/11, block A1). No partial subsistence amounts will be paid for any day in which there was no overnight (lodging) stay.

C8.4.1.1 The Government, at its option, may provide meals and/or lodging (which may be remote field or fire camp accommodations). If not Government provided, the Vendor will be paid an overnight allowance equal to the standard Federal Travel Regulation (FTR) rate (or high rate, if applicable). The Vendor may claim overnight expenses using either of the two following methods:

- (i) Payment of the Standard or High Rate, (if applicable) lodging and M&IE rate EXCLUDING lodging tax (does not require lodging receipts to be submitted with the OAS-23) or;
- (ii) Payment of actual lodging amount and M&IE rate not to exceed the maximum FTR rate PLUS lodging tax. An itemized lodging invoice detailing lodging cost and tax IS REQUIRED to be submitted with the Vendor's invoice and the OAS-23. Credit card receipts are not acceptable.

C8.4.1.2 The Vendor's invoice and the OAS-23 shall clearly show the county or city where the overnight occurred. High rate claims for subsistence that do not include this information will be reduced to the standard rate.

C8.4.1.3 If the Vendor elects not to utilize Government provided meals and/or lodging, there shall be no payment for meals, lodging or transportation costs incurred by the Vendor for travel to alternate meal or lodging locations.

C8.4.1.4 No payment will be made for partial M&IE when the Vendor's crew is directed to operate in the field and returns to the operating base in the evening and no overnight occurs.

C8.4.1.5 If partial subsistence, either three meals or lodging, is provided by the Government, the Vendor will be paid at current FTR rates for the portion that is Vendor provided. Current rates established by the FTR are:

CONTERMINOUS 48 STATES
Standard

Meals and Incidental Expense - \$39.00
Lodging - \$60.00

HAWAII
Standard

Meals and Incidental Expense - \$61.00
Lodging - \$72.00

ALASKA
Standard

Meals and Incidental Expense - \$55.00
Lodging - \$80.00

For High Rate AreasSee Internet site <http://www.gsa.gov> and select Per Diem Rates.

C8.4.2 Airport Use Costs. The Government will pay the Vendor for any airport use costs, such as tie downs or similar type costs, the Vendor is required to pay when ordered to operate from an airport other than the Vendor's operating base. Such costs, when in excess of \$75.00, shall be supported by a paid itemized invoice.

C8.4.3 Landing Fees. The Government will pay the Vendor for all landing fees the Vendor is required to pay at all bases of operations. Such costs, when in excess of \$75.00, shall be supported by a paid itemized invoice.

C8.4.4 Out of State Miscellaneous Expenses. The Government will pay the Vendor for miscellaneous costs the Vendor is required to pay when operating outside the state(s) in which the Vendor's operating base is located. This is intended to cover such items as licenses, permits or similar charges. Such costs, when in excess of \$75.00, shall be supported by paid itemized invoice(s).

C8.4.5 Miscellaneous Charges. Miscellaneous charges for goods or services furnished by the Government, on behalf of the Vendor, will be deducted from amounts due under the agreement.

C8.4.6 Seat Fares. The Vendor may offer seat fares (fixed price tariff) under the Aircraft Rental Agreement. When seat fares are used as the form of compensation, the flight shall not be subject to the exclusive use and control of the Government and/or its traveler. However, the aircraft used must have a current approved Aircraft Data Card and the pilot must be in possession of a current DOI AM pilot card.

C8.4.6.1 Seat fares on flights with a scheduled air carrier means that the certificate holder has offered in advance the departure location, departure time, and arrival location.

C8.4.6.2 Seat fares shall be those rates, which have been submitted in advance by the Vendor and accepted by the Contracting Officer. The Vendor may revise its seat fares by notifying the Contracting Officer in writing. Seat fares shall be paid at the current approved rate on file for the date on which the trip was taken.

C8.4.6.3 The seat fare will be reported on an OAS-23, supported by a ticket receipt, itemizing the seat fare price and the transportation tax. The DOI traveler shall be responsible for the completion of the OAS-23 at the time the trip is taken.

C8.4.7 The Vendor will be paid the rate per mile stipulated below for a fuel servicing vehicle meeting the requirements of this agreement when it is ordered by the Government to provide support to the helicopter away from the designated base.

0 Gallons to 349 Gallons	\$0.95 Per Mile
350 Gallons to 749 Gallons	\$1.40 Per Mile
750 Gallons to 1,499 Gallons	\$2.00 Per Mile
1,500 Gallons or more	\$2.50 Per Mile

C9. ACCIDENT PREVENTION AND SAFETY

C9.1 The Vendor shall furnish a copy of all reports required to be submitted to the Federal Aviation Administration (FAA) by the Federal Aviation Regulations that relate to pilot and maintenance personnel performance, aircraft airworthiness or operations.

C9.1.1 Examples of these reports are paragraphs 14 CFR Part 135.415 Mechanical Reliability Reports and Part 135.417 Mechanical Interruption Summary Reports required of the Federal Aviation Regulations, 49 CFR Part 830, and FAA Form 8010-4, Malfunction or Defect Report.

C9.2 Following the occurrence of a mishap, the Contracting Officer (CO) will evaluate whether noncompliance or violation of provisions of the agreement, the Federal Aviation Regulations applicable to the Vendor's operations, company policy, procedures, practices, programs, negligence on the part of the company officers or employees may have caused or contributed to the mishap. The Vendor shall fully cooperate with the CO in the fulfillment of this clause.

C9.3 The Vendor shall keep and maintain programs necessary to assure safety of ground and flight operations. The development and maintenance of these programs are a material part of the performance of the agreement.

C9.3.1 Examples of such programs are 1) personnel activities, 2) maintenance, 3) safety, and 4) compliance with regulations.

C10. MISHAPS

C10.1 **Definitions.** As used throughout this agreement, the following terms shall have the meaning set forth below:

C10.1.1 **Aircraft Accident.** See 49 CFR Part 830.

C10.1.2 **Airspace Conflict.** A near mid-air collision, intrusion, or violation of airspace rules.

C10.1.3 **Aviation Hazard.** Any condition, act, or set of circumstances that exposes an individual to unnecessary risk or harm during aviation operations.

C10.1.4 **Fatal Injury.** See 49 CFR Part 830.

C10.1.5 **Incident.** See 49 CFR Part 830.

C10.1.6 **Incident with Potential.** An incident that narrowly misses being an accident and in which the circumstances indicate significant potential for substantial damage or serious injury. Classification of an incident as an "Incident with Potential" is determined by the DOI AM Aviation Safety Manager (ASM) for DOI users or U.S. Forest Service (USFS) Aviation Safety Manager for USFS users.

C10.1.7 **Maintenance Deficiency.** An equipment defect or failure which affects or could affect the safety of operations, or that causes an interruption to the services being performed.

C10.1.8 **Operator.** See 49 CFR Part 830.

C10.1.9 **SafeCom.** An agency Aviation Safety Communique used to report any condition, observance, act, maintenance problem, or circumstance which has potential to cause an aviation related accident (Form OAS-34 or FS 5700-14). Electronic access to the SAFECOM is available on the DOI AM web page at <http://www.oas.gov>.

C10.1.10 **Serious Injury.** See 49 CFR Part 830.

C10.1.11 **Substantial Damage.** See 49 CFR Part 830.

C10.2 **Mishap Reporting.** The Vendor of an aircraft for the Government shall immediately, and by the most expeditious means available, notify the National Transportation Safety Board (NTSB) AND the DOI AM ASM or USFS ASM when an "Aircraft Accident" or NTSB reportable "Incident" occurs.

C10.2.1 The ASM of the using department or agency shall immediately be notified when an "Incident with Potential" occurs.

C10.2.2 The toll free 24-hour Interagency Aircraft Accident Reporting Hot Line number is:

1-888-4MISHAP (1-888-464-7427)

C10.3 Forms Submission

C10.3.1 Following an "Aircraft Accident" or when requested by the NTSB following the notification of a reportable "Incident," the Vendor will provide the DOI AM/USFS ASM with information necessary to complete a NTSB Form 6120.1/2.

C10.3.2 The NTSB Form 6120.1/2 does not replace the Vendor's responsibility, within 5 days of an event, to submit to the DOI AM/USFS ASM a "SAFECOM" to report any condition, observance, act, maintenance problem, or circumstance which has potential to cause an aviation-related mishap. Submission via the internet at <http://www.oas.gov> is preferred. Blank SAFECOMs can be obtained from DOI AM.

C10.4 Pilot Suspension. See C1.7 contained herein.

C10.5 Preservation Requirements. The Vendor shall not permit removal or alteration of the aircraft, aircraft equipment or records following an Aircraft Accident, Incident, or Incident with Potential until authorized to do so by the CO or other authorized agency representative. Exceptions are when threat to life or property exists, the aircraft is blocking an airport runway, etc. The CO shall be immediately notified when such actions take place.

C10.5.1 The NTSB's release of the wreckage does not constitute a release by the CO.

C10.6 Mishap Investigations.

C10.6.1 The Vendor shall maintain an accurate record of all aircraft accidents, incidents, aviation hazards and injuries to Vendor or Government personnel arising in the course of performance under this agreement.

C10.6.2 Following a mishap, the Vendor will ensure that personnel (pilots, mechanics, etc.) associated with the aircraft will remain in the vicinity of the mishap until released by the CO or their designated representative. Further the Vendor fully agrees to cooperate with the agency during an investigation and make available personnel records, aircraft records, and any equipment, damaged or undamaged, deemed necessary by the agency.

C10.7 Costs Related to Investigation. The NTSB or agency will determine their individual agency investigation cost responsibility. The Vendor will be fully responsible for any cost associated with the reassembly, approval for return-to-service, and return transportation of any items disassembled by the Government.

C10.8 Rescue and Salvage Responsibilities. The cost of search, rescue and salvage operations made necessary due to causes other than negligent acts of a Government employee shall be the responsibility of the Vendor.

C11. FEDERAL AIRPORT AND AIRWAY EXCISE TAXES (Chapters 31 and 33 of the Internal Revenue Code, 26 U.S.C. 4041, 4261 et seq.) (Vendor Furnished Pilot) Chapters 31 and 33 of the Internal Revenue Code impose an excise tax on aviation in two ways (1) as a fuel tax and (2) as a transportation tax on transportation of passengers and cargo for aircraft having maximum certificate weights in excess of 6,000 pounds.

C11.1 Fuel Tax. If this agreement requires Vendor furnished fuel, the Vendor shall be responsible for payment of the fuel tax and shall include such taxes in his bid price.

C11.2 Transportation Tax. If the Vendor is required to pay the transportation tax for services under this agreement, the tax will be automatically calculated by the Government and the Vendor reimbursed for the amount of such taxes.

C11.2.1 Exemptions. The Internal Revenue Service and the U.S. Treasury Department have issued several rulings regarding imposition of transportation taxes. These rulings do not exempt imposition of fuel taxes for which the Vendor is responsible under the above paragraphs.

Rev. Rule. 72-156 -- Exempts aircraft from passenger and cargo tax under Section 4261 and 4271 of the code when hauling and dropping fire retardant.

Rev. Rule. 76-477 -- Exempts aircraft from passenger and cargo taxes under Sections 4261 and 4271 of the code when Vendor's employees are spotting fires, or hauling and dropping retardant chemicals.

C11.3 If the Government is required to reimburse the Vendor both fuel tax and transportation tax for a service under this agreement, the Government is entitled to claim reimbursement from the Internal Revenue Service, the portion of the fuel tax not applicable to trust tax assessments.

C12. EXHIBITS TO THIS SECTION

C12.1 Exhibit A - Statement of Equivalent Rates for Federal Hires

C12.2 Exhibit B - Department of Labor Wage Determination for Pilot.

C12.3 Exhibit C – Suspension/Revocation Process – Pilot DOI Qualification Card

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (JAN 2006)

- (a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.233-3, Protest after Award (AUG 1996) (31 U.S.C. 3553).
- (2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78)

- (b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- 52-203-6 Restrictions on Subcontractor Sales to the Government (July 1995), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).
- 52.219-6 (5)(i) Notice of Total Small Business Set-Aside (June 2003) (15 U.S.C. 644)
- 52.219-8 Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637 (d)(2) and (3)).
- 52.219-14 Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
- 52.222-3 Convict Labor (JUNE 2003) (E.O. 11755)
- 52.222-21 Prohibition of Segregated Facilities (Feb 1999)
- 52.222-26 Equal Opportunity (April 2002) (E.O. 11246)
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212)
- 52.222-36 Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793)
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212)
- 52.225-16 Sanctioned European Union Country Services (Feb 2000) (E.O. 12849).
- 52.232-34 Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

- (c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- 52.222-41 Service Contract Act of 1965, as amended (JULY 2005) (41 U.S.C. 351, *et. seq.*)
- 52.222-42 Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et. seq.*)
- 52.222-43 Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts) (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*)

EXHIBIT A

Statement of Equivalent Rates for Federal Hires (48 CFR 52.222.42)

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION

Set forth below are wage rates and fringe benefits that would be paid by the contracting activity for the various classes of service employees expected to be utilized under the contract if 5 U.S.C. 5332 (General Schedule-white collar) and/or 5 U.S.C. 5341 (Wage Board-blue collar) were applicable.

- | <u>A. EMPLOYEE CLASS</u> | <u>MONETARY WAGE</u> |
|---|-------------------------|
| Aircraft Pilot, GS-11 | \$ 24.90 |
| Fuel Servicing Vehicle Driver
(Truck Driver, WG-5) | See Wage Determinations |
- B. Fringe benefits such as life, accident and health insurance, and sick leave, etc., are not less than 5.1 percent of the basic hourly rate.
- C. Paid Holidays are:
- | | |
|---------------------------------------|---------------------|
| 1. New Year's Day | 6. Labor Day |
| 2. Martin Luther King, Jr.'s Birthday | 7. Columbus Day |
| 3. President's Day | 8. Veterans Day |
| 4. Memorial Day | 9. Thanksgiving Day |
| 5. Independence Day | 10. Christmas Day |
- D. The amount of paid vacation time allowed is as follows:
1. Two (2) hours of annual leave each week for an employee with less than three (3) years of service.
 2. Three (3) hours of annual leave each week for an employee with three (3) but less than fifteen (15) years of service.
 3. Four (4) hours of annual leave each week for an employee with fifteen (15) or more years of service.
- E. The percentage of the basic hourly rate that is contributed by the contracting agency for retirement is currently 7 to 17.5 percent.

THE WAGES AND BENEFITS ON THIS PAGE ARE NOT MANDATORY
-FOR INFORMATION ONLY-

EXHIBIT B**DEPARTMENT OF LABOR WAGE DETERMINATION INFORMATION**

This solicitation includes Department of Labor (DOL) wage determinations as identified below. In order that this solicitation may be accessed electronically, the following DOL wage determination information has been extracted from the wage determination(s) listed below and identifies the occupations of service employees that would typically be employed on this type of a solicitation. This information should be considered when submitting an offer. The DOL wage determination information identified herein will be included in the awarded contract with complete copies of the wage determinations being provided to the successful Contractor. ***To receive the wage determinations in their entirety, please contact the issuing office at 208-334-9314 or submit a written facsimile request to 208-334-9303.***

DOL WAGE DETERMINATION NO. 1995-0222, REV. 19 DATED 07/07/05

Area: Nationwide
 Applicable Occupation: Airplane Pilot Minimum Hourly Wage: \$22.81

DOL WAGE DETERMINATION NO. 1995-0221, REV. 15 DATED 05/23/05

[X]Area: Midwestern Region: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, south Dakota, Wisconsin

Applicable Occupation: Truckdriver, Light * Minimum Hourly Wage: \$12.04
 Truckdriver, Medium ** Minimum Hourly Wage: \$16.08
 Truckdriver, Heavy *** Minimum Hourly Wage: \$16.81

[X]Area: Northeast Region: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont

Occupation: Truckdriver, Light * Minimum Hourly Wage: \$12.79
 Truckdriver, Medium ** Minimum Hourly Wage: \$16.49
 Truckdriver, Heavy *** Minimum Hourly Wage: \$17.21

[X]Area: Southern Region: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia

Occupation: Truckdriver, Light * Minimum Hourly Wage: \$8.18
 Truckdriver, Medium ** Minimum Hourly Wage: \$14.64
 Truckdriver, Heavy *** Minimum Hourly Wage: \$15.23

[X]Area: Western Region: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming

Occupation: Truckdriver, Light * Minimum Hourly Wage: \$9.54
 Truckdriver, Medium ** Minimum Hourly Wage: \$15.14
 Truckdriver, Heavy *** Minimum Hourly Wage: \$16.14

As defined in the DOL Service Contract Act Directory of Occupations, truck drivers are classified by type and rated capacity of truck as follows:

*Straight truck, under 1 ½ tons, usually 4 wheels

**Straight truck, 1 ½ to 4 tons inclusive, usually 6 wheels

***Straight truck, over 4 tons, usually 10 wheels

FRINGE BENEFITS REQUIRED AND APPLICABLE FOR EACH OCCUPATION IDENTIFIED ABOVE**WD 1995-0222 Rev. 19 and WD 1995-0221 Rev. 15**

1. Health & Welfare: \$2.87 per hour or \$114.80 per week or \$497.47 per month
2. Holidays: Minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day. (A Contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (Reg. 29 CFR 4.174)

WD 1995-0222 Rev. 19

3. Vacation: 2 weeks paid vacation after 1 year of service with a Contractor or successor; 3 weeks after 5 years; 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present Contractor or successor, wherever employed, and with the predecessor Contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

WD 1995-0221 Rev. 15

3. Vacation: 2 weeks paid vacation after 1 year of service with the Contractor or successor; 3 weeks after 10 years; 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present Contractor or successor, wherever employed, and with the predecessor Contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

CONFORMANCE PROCESS - If the offeror intends to employ a class of service employee that is not listed above, the offeror should immediately contact the issuing office of this solicitation and request a complete copy of the wage determinations. The offeror can then view the wage determinations in their entirety and if needed can make a request for authorization of an additional classification and wage rate through the conformance process as set forth in the wage determinations.

EXHIBIT C**SUSPENSION/REVOCATION PROCESS - PILOT DOI QUALIFICATION CARD**

ACTION	RESPONSIBLE PARTY	TIME FRAME
1. Provide OAS written correspondence which indicates a serious safety concern.	Originator	As soon as possible.
2. Immediately contact the pilot and discuss the safety concern. If warranted, suspend the pilot from performing DOI pilot privileges and request the DOI pilot qualification card be returned to OAS. Inform the OAS Director of actions.	OAS Regional or Area Director, or OAS Director-designated representative.	Within a reasonable time frame.
3. Upon request, provide OAS with a written response to the safety concern.	Pilot	Within 10 working days of receiving written notice.
4. Complete an investigation into the facts and circumstances surrounding the safety concern.	OAS Regional or Area Director, or OAS Director-designated representative.	Within 30 working days of receipt of pilot's statement.
5. Notify the pilot in writing of the investigation findings, decision, and pilot status.	OAS Regional or Area Director, or OAS Director-designated representative.	Within 10 working days following the completion of the investigation.
6. Upon written notice of a revocation decision, a pilot may request the OAS Director to reconsider the decision if additional substantive evidence is presented.	Pilot	Within 10 working days following receipt of decision.
7. Upon receiving a pilot's written request and additional evidence, the OAS Director will reconsider a revocation decision.	OAS Director	Within a reasonable time frame.

A Pilot Review Board (PRB) may be convened in accordance with established procedures to assist in the collection and examination of evidence, and make recommendations on pilot status at any stage of the process.

Timeframes may be extended with the written approval of the OAS Regional or Area Director.

Correspondence will be sent certified mail, return receipt requested.

NOTE: The references to OAS above are now accomplished by the DOI AM.